

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: L. RAMALHO 9/28/05
Name of Contact person Date

in the ORL at 22601
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS
 Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment DW - DC Government

The Total Dollar Amount of Receivable \$ 247,119

The Case Docket Number RCRA-03-2209-0297
(If in installments, attach schedule of amounts and respective due dates)

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005
2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk
3. Regional Counsel

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	RCRA-03-2009-0297
1725 15 th Street, N.E.)	
Washington, D.C. 20002)	
)	
RESPONDENT,)	
	)	Proceeding Under Section 9006 of the
	)	Resource Conservation and Recovery
DPW - Fleet Management Facility	)	Act, as amended, 42 U.S.C. Section
1833 West Virginia Avenue, NE	)	6991e
Washington, DC 20032)	
)	
FACILITY.)	
)	
)	
	)	CONSENT AGREEMENT

RECEIVED
 2009 SEP 30 AM 10:39
 U.S. ENVIRONMENTAL AGENCY

CONSENT AGREEMENT

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and the Fleet Management Administration of the Department of Public Works of the Government of the District of Columbia ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the District of Columbia's federally authorized underground storage tank ("UST") program by Respondent in connection with its underground storage tanks at Respondent's facility located at 1833 West Virginia Ave, N.E. in Washington, D.C. (the "Facility").

Effective May, 4, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the District of Columbia was granted final authorization to administer a state UST management program *in lieu* of the Federal UST management program

established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the District of Columbia UST management program, through this final authorization, are enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. The District of Columbia's authorized UST program regulations are set forth in the District of Columbia Municipal Regulations, Title 20, Chapters 55 *et seq.*, and will be cited hereinafter as 20 DCMR §§ 5500 *et seq.*

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement ("CA"), the issuance of the attached Final Order ("FO"), or the enforcement thereof.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees.
7. The provisions of this CAFO shall be binding upon Respondent, and its officers, directors, employees, successors and assigns.
8. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
9. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in the CA are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.

10. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
11. EPA has given the District of Columbia prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

12. The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
13. Respondent is a "person" as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 20 DCMR § 6899.1.
14. At all times relevant to this CAFO, Respondent has been the "owner" and/or "operator," as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 20 DCMR § 6899.1, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 20 DCMR § 6899.1, located at the Facility.
15. On February 24, 2009, representatives of the United States Environmental Protection Agency (EPA) conducted a Compliance Evaluation Inspection (CEI) of DPW's Facility.
16. At the time of the February 24, 2009 CEI, and at all times relevant to the applicable violations alleged herein, seven (7) USTs were located at the Facility as described in the following subparagraphs:
 - A. An eight thousand (8,000) gallon bare steel tank that was installed in or about January 1985, and that, at all times relevant hereto, routinely contained and was used to store heating oil (hereinafter "UST No. 1");
 - B. A five hundred fifty (550) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 2");
 - C. A four thousand (4000) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store antifreeze, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 3");

- D. A four thousand (4000) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store motor oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 4");
 - E. A four thousand (4000) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store motor oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 5");
 - F. A four thousand (4000) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store transmission fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 6"); and
 - G. A five thousand (5000) gallon bare steel tank that was installed in or before 1993, and that, at all times relevant hereto, routinely contained and was used to store used oil, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1 (hereinafter "UST No. 7").
17. On March 31, 2009, EPA issued Respondent a Request for Information letter pursuant to Section 9005 of RCRA, as amended, 42 U.S.C. § 6991d, regarding UST compliance at the Respondent's Facility.
 18. At all times relevant to the applicable violations alleged herein, USTs Nos. 2 and 4 through 7 located at Facility have been "petroleum UST systems" and "existing tank systems" as these terms are defined in 20 DCMR § 6899.1.
 19. At all times relevant to the applicable violations alleged herein, UST No. 3 located at Facility has been a "hazardous substance UST system" and "existing tank system" as these terms are defined in 20 DCMR § 6899.1.
 20. USTs Nos. 2 through 7 located at the Facility are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 20 DCMR § 6899.1, and have not been "empty" as that term is defined at 20 DCMR § 6100.7.

COUNTS 1-5

(Failure to perform release detection on USTs Nos. 3 through 7)

21. The allegations of Paragraphs 1 through 20 of this CAFO are incorporated herein by reference.
 22. 20 DCMR § 6000.1 provides that each owner and operator of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets the requirements described therein.
 23. 20 DCMR § 6002.1 provides that each owner and operator of a hazardous substance UST system shall provide release detection that meets the requirements of 20 DCMR § 6002.
 24. 20 DCMR § 6002.6 provides that release detection for existing hazardous substance UST system shall meet the requirements for petroleum UST systems set forth in 20 DCMR § 6003; provided, that all existing hazardous substance UST system shall meet the release detection requirements for new UST systems set forth therein on or before December 22, 1994.
 25. Pursuant to 20 DCMR §§ 6003.1 through 6003.5, tanks which are part of a petroleum UST system must be monitored at least every 30 days for releases using one of the methods listed in 20 DCMR §§ 6008 through 6012, except that: (1) prior to December 22, 1995, certain UST systems could have been monitored using a combination of inventory control and tank tightness testing in compliance with the requirements of 20 DCMR §§ 6005 through 6007; and (2) tanks with a capacity of 550 gallons or less may use weekly tank gauging conducted in accordance with 20 DCMR § 6006.
 26. From October 1, 2004 through June 12, 2009, Respondent's USTs Nos. 3 and 6 were not monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
 27. From October 1, 2004 through May 12, 2009, Respondent's USTs Nos. 4 and 5 were not monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
 28. From October 1, 2004 through April 30, 2009, Respondent's UST No.7 was not monitored in compliance with any of the methods set forth in 20 DCMR § 6003.3 through 6003.5 and/or 20 DCMR §§ 6005 through 6012.
 29. Respondent's acts and/or omissions as alleged in Paragraphs 26 through 28, above, constitute violations by Respondent of 20 DCMR §§ 6000.1, 6002.6, and 6003.
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COUNTS 6 - 9

(Failure to conduct piping release detection on USTs Nos. 3 through 6)

30. The allegations of Paragraphs 1 through 31 of this CAFO are incorporated herein by reference.
31. 20 DCMR § 6004.1 provides that the owner and operator of an UST system shall regularly monitor all underground piping that contains or conveys regulated substances for releases in accordance with 20 DCMR § 6004.
32. From October 1, 2004 through June 12, 2009, Respondent's underground piping for USTs Nos. 3 and 6 contained or conveyed regulated substances at Respondent's Facility.
33. From October 1, 2004 through May 12, 2009, Respondent's underground piping for USTs Nos. 4 and 5 contained or conveyed regulated substances at Respondent's Facility.
34. From October 1, 2004 through June 12, 2009, Respondent failed to monitor all the underground piping for USTs Nos. 3 and 6 for releases in accordance with 20 DCMR § 6004 while such piping contained or conveyed regulated substances at Respondent's Facility.
35. From October 1, 2004 through May 12, 2009, Respondent failed to monitor all the underground piping for USTs Nos. 4 and 5 for releases in accordance with 20 DCMR § 6004 while such piping contained or conveyed regulated substances at Respondent's Facility.
36. Respondent's acts and/or omissions as alleged in Paragraphs 34 and 35, above, constitute violations by Respondent of 20 DCMR § 6004.1.

COUNTS 10 -14

(Failure to meet the upgrade requirements on USTs Nos. 2, and 4 through 7)

37. The allegations of Paragraphs 1 through 36 of this CAFO are incorporated herein by reference.
38. 20 DCMR § 5800.1 provides that not later than December 22, 1998, the owner and operator of each existing petroleum UST system shall ensure that the UST system complies with one of the following: (a) the upgrade requirements set forth in Chapter 58; (b) the new UST system performance standards set forth in Chapter 57; (c) for UST systems installed or upgraded on or before December 22, 1988, the federally-required new tank performance standards set forth in 40 C.F.R. § 280.20; (d) the permanent closure requirements set forth in 20 DCMR Chapter 61, including applicable requirements for corrective action set forth in 20 DCMR Chapter 62.

39. The "upgrade requirement" at 20 DCMR § 5801.2 provides, in pertinent part, that existing UST systems may be upgraded by internal lining if certain requirements are met in accordance with 20 DCMR § 5801.2(a) and (b).
40. The "upgrade requirement" at 20 DCMR § 5801.3 provides, in pertinent part, that existing UST systems may be upgraded by cathodic protection if the cathodic protection system meets certain requirements set forth therein.
41. The "upgrade requirement" at 20 DCMR § 5801.4 provides, in pertinent part, that existing UST systems may be upgraded by both internal lining and cathodic protection if certain requirements set forth therein.
42. The "new UST system performance standards" requirements provide, in pertinent part at 20 DCMR § 5700.9, that each tank shall be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified by the Director of the Department of Consumer & Regulatory Affairs, and in accordance with the District of Columbia Fire Prevention Code and shall meet the requirements of this code.
43. The "federally-required new UST performance standards" requirement of 40 C.F.R. § 280.20(a) provides that each tank that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory. 40 C.F.R. § 280.20(a) further provides that: (1) the tank be constructed of fiberglass-reinforced plastic; or (2) the tank be constructed of steel and cathodically protected in the following manner: (i) the tank is coated with a suitable dielectric material; (ii) field-installed cathodic protection systems are designed by a corrosion expert; (iii) impressed current systems are designed to allow determination of current operating status as required in § 280.31(c); and (iv) cathodic protection systems are operated and maintained in accordance with § 280.31 or according to guidelines established by the implementing agency; or (3) the tank is constructed of steel-fiberglass-reinforced-plastic composite; or (4) the tank is constructed of metal without additional corrosion protection measures provided that (i) the tank is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and (ii) owners and operators maintain records that demonstrate compliance with the requirements of paragraph (a)(4)(i) of this section for the remaining life of the tank; or (5) the tank construction and corrosion protection are determined by the implementing agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements (a)(1) through (4).
44. From October 1, 2004 through March 4, 2009, UST No. 2 at the Facility was made of steel, routinely contained regulated substances, and was in contact with the ground.

45. From October 1, 2004 through June 11, 2009, USTs Nos. 4 through 6 at the Facility were made of steel, routinely contained regulated substances, and were in contact with the ground.
 46. From October 1, 2004 through May 1, 2009, UST No. 7 at the Facility was made of steel, routinely contained regulated substances, and was in contact with the ground.
 47. From October 1, 2004 through March 4, 2009, UST No. 2 at the Facility was not properly designed, constructed, and/or protected from corrosion in accordance with the upgrade requirements of 20 DCMR, Chapter 58, the new UST system performance standards of 20 DCMR Chapter 57, or the federally-required new tank performance standards fo 40 C.F.R. § 280.20.
 48. From October 1, 2004 through June 11, 2009, USTs Nos. 4 through 6 at the Facility were not properly designed, constructed, and/or protected from corrosion in accordance with the upgrade requirements of 20 DCMR, Chapter 58, the new UST system performance standards of 20 DCMR Chapter 57, or the federally-required new tank performance standards fo 40 C.F.R. § 280.20.
 49. From October 1, 2004 through May 1, 2009, UST No. 7 at the Facility was not properly designed, constructed, and/or protected from corrosion in accordance with the upgrade requirements of 20 DCMR, Chapter 58, the new UST system performance standards of 20 DCMR Chapter 57, or the federally-required new tank performance standards of 40 C.F.R. § 280.20.
 50. From October 1, 2004 through March 4, 2009, Respondent's UST No. 2 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5800.1(d).
 51. From October 1, 2004 through June 11, 2009, Respondent's USTs Nos. 4 through 6 were not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5800.1(d).
 52. From October 1, 2004 through May 1, 2009, Respondent's UST No. 7 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5800.1(d).
 53. Respondent's act and/or omission as alleged in Paragraphs 47 through 52, above, constitutes a violation by Respondent of 20 DCMR §§ 5800.1, and 5801.2 through 5801.4.
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COUNT 15

(Failure to meet the upgrade requirements on UST No. 3)

54. The allegations of Paragraphs 1 through 53 of this CAFO are incorporated herein by reference.
55. 20 DCMR § 5700.3 provides, with certain exceptions not relevant to the violation alleged herein, that the owner or operator of each existing hazardous substance UST system shall ensure that no later than December 22, 1994, the UST system:
 - (a) Meets the new UST performance standards for hazardous substance USTs set forth in 20 DCMR § 5702; or
 - (b) Meets the permanent closure requirements set forth in 20 DCMR § 6100, including applicable requirements for corrective action set forth in 20 DCMR § 6200.
56. 20 DCMR § 5702 provides, with certain exceptions not relevant to the violation alleged herein, that each new hazardous substance underground storage tank shall be:
 - (a) Constructed of fiberglass-reinforced plastic, steel-fiberglass-reinforced plastic composite, or steel;
 - (b) If constructed of steel, shall be cathodically protected in accordance with the requirements of 20 DCMR § 5702.2; and
 - (c) Shall be of 360 degree double wall construction as set forth in 20 DCMR § 5702.6.
57. 20 DCMR § 5702.2 provides that each steel tank shall be cathodically protected by being coated with a suitable dielectric material, and in addition:
 - (a) Field-installed cathodic protection systems shall be designed by a corrosion expert; and
 - (b) Impressed current cathodic protection systems shall be designed to allow determination of current operating status as required by 20 DCMR § 5901.6.
58. At all times relevant to the applicable violations alleged herein, UST No. 3 located at Facility has been a "hazardous substance UST system" and "existing tank system" as these terms are defined in 20 DCMR § 6899.1, that was brought into use at the Facility on or before 1993.

59. From October 1, 2004 through June 12, 2009, UST No. 3 at the Facility was not properly designed, constructed, and/or protected from corrosion in accordance with the upgrade requirements of the new hazardous substance UST system performance standards of 20 DCMR Chapter 5702.
60. From October 1, 2004 through June 12, 2009, Respondent's UST No. 3 was not in compliance with the permanent closure requirements of 20 DCMR Chapter 60, as allowed by 20 DCMR § 5700.3(b).
61. Respondent's act and/or omission as alleged in Paragraphs 59 and 60, above, constitutes a violation by Respondent of 20 DCMR § 5700.3.

COUNT 16

(Failure to register USTs)

62. The allegations of Paragraphs 1 through 61 of this CAFO are incorporated herein by reference.
63. 20 DCMR § 5602.2 provides that owners and operators of UST systems must submit to the District of Columbia Department of the Environment ("DOE") notification for all UST systems in accordance with 20 DCMR § 5600.
64. 20 DCMR § 5600.1 provides that any owner who has an underground storage tank or UST system that is in the ground on May 8, 1986, or was brought into use thereafter, or who brings an UST or UST system into use after the effective date of these regulations, May 4, 1998, shall submit a notice of existence of the UST or UST system to the Director of DOE.
65. Respondent brought into use USTs Nos. 2 through 7 after May 8, 1986.
66. From October 1, 2004 through February 24, 2009, Respondent failed to notify DOE that USTs Nos. 2 through 7 were brought into use at the Facility.
67. Respondent's failure to notify DOE that USTs Nos. 2 through 7 were brought into use, as described in Paragraphs 65, above, constitutes violations by Respondent of 20 DCMR §§ 5602.2 and 5600.1.

COMPLIANCE ORDER

68. Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered to:
 - A. Within one hundred twenty (120) days of the effective date of this CAFO, close all the UST systems located at the Facility in accordance with 20 DCMR Chapter
-

61 including any corrective measures required under 20 DCMR Chapter 62 and, within sixty (60) days thereafter, submit to EPA a closure report and certification that the tanks are permanently and properly closed.

- 69. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this CAFO which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this CAFO shall be certified by a principal executive officer or ranking elected official as defined at 40 C.F.R. § 270.11(a).

The certification required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate, and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____

Name: _____

Title: _____

- 70. All documents and reports to be submitted pursuant to this CAFO shall be sent to the following persons:

- A. Documents to be submitted to EPA shall be sent either by overnight mail or by certified mail, return receipt requested to:

Melissa Toffel (3LC70)
 U. S. Environmental Protection Agency Region III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103

- B. One copy of all documents submitted to EPA shall be sent by first class mail to:

Mr. Alex Bako
 District of Columbia Department of the Environment
 Toxics Substances Division
 51 N Street, NE, 16th Floor
 Washington, DC 20002-3327

CIVIL PENALTY

71. In settlement of Complainant's claims for civil penalties for the violations alleged in this CA, Respondent agrees to pay a civil penalty in the amount of Two Hundred Forty-Seven Thousand One Hundred Nineteen Dollars (\$247,119.00) and perform the tasks set forth in the Compliance Order. The civil penalty amount is due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO. Pursuant to 40 C.F.R. § 13.11(a)(2), EPA agrees that in order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than sixty (60) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
72. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
73. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within sixty (60) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
74. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
75. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R.

§ 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

76. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors in RCRA Section 9006(c) - (e), 42 U.S.C. § 6991e(c) - (e), and with EPA's Penalty Guidance for Violations of UST Regulations ("UST Guidance") dated November 4, 1990.

77. Respondent shall pay the amount described in Paragraph 71, above, to the "United States Treasury," as follows:

A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2009-0297;

B. All checks shall be made payable to "**United States Treasury**";

C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Eric Volck 513-487-2105

D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 68010727 Environmental Protection Agency

- G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

- H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- I. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

A copy of Respondent's check or a copy of Respondent's
electronic transfer shall be sent simultaneously to:

EPA Region III
1650 Arch Street

Philadelphia, Pennsylvania 19103 - 2029, and
Regional Hearing Clerk (3RC00)

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

FULL AND FINAL SATISFACTION

78. This CAFO constitutes a settlement by EPA of its claims for civil penalties pursuant to 9006(a) of RCRA, 42 U.S.C. § 6991e(a), for the violations alleged in this Consent Agreement.

RESERVATION OF RIGHTS

79. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

OTHER APPLICABLE LAWS

80. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed on it by applicable federal, state or local law and/or regulations.

AUTHORITY TO BIND THE PARTIES

81. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto.

ENTIRE AGREEMENT

82. This Consent Agreement and the attached Final Order constitute the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Agreement and the attached Final Order.
-

EFFECTIVE DATE

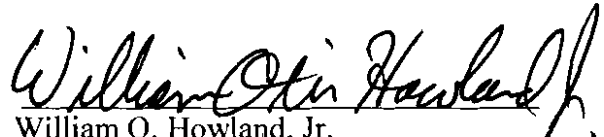
83. This CAFO shall become effective upon filing with the Regional Hearing Clerk

For Respondent:

Fleet Management Administration of the
Department of Public Works of the
Government of the District of Columbia

9-24-2009

Date

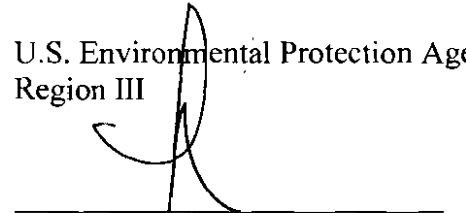

William O. Howland, Jr.
Director of the Department of Public Works

For Complainant:

U.S. Environmental Protection Agency,
Region III

9/28/2009

Date




Louis F. Ramalho
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

9/29/09

Date

By: 

Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In the Matter of:)	
)	
Fleet Management Administration)	
Department of Public Works	)	U.S. EPA Docket Number
Government of the District of Columbia	)	Docket No. RCRA-03-2009-0297
1725 15 th Street, NE)	
Washington, DC 20002	)	Proceeding Under Section 9006(a) of the
	)	Resource Conservation and Recovery
RESPONDENT,	)	Act, as amended, 42 U.S.C. § 6991e(a).
)	
)	
DPW - Fleet Management Facility	)	FINAL ORDER
1833 West Virginia Avenue, NE)	
Washington, DC 20032)	
)	
FACILITY.)	

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Department of Public Works of the Government of the District of Columbia have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.


NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(c) of the Resource Conservation and

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CLEANED

Recovery Act, 42 U.S.C. § 6991e(c) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Two Hundred Forty-Seven Thousand One Hundred Nineteen (\$247,119.00) Dollars in accordance with the payment provisions set forth in the attached Consent Agreement, and comply with each of the additional terms and conditions as specified in the attached Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 9/30/09



Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2009-0297** was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following party:

Ms. Pamela B. Washington
Assistant General Counsel
Office of Attorney General
Government of the District of Columbia
Department of Public Works
2000 14th Street., N.W.
Washington, DC 20009

9/20/09
Date



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

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FILED